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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,812	12/29/2003	Gerald A. Hutchinson	APTLTD.043A	1883
20995	7590	01/12/2006		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/747,812

Applicant(s)

HUTCHINSON ET AL.

Examiner

Gloria R. Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. Claims 1 and 10 have been amended, claims 4 and 5 have been canceled, and claims 22-30 have been added.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. 10-21 are rejected under 35 U.S.C. 102(b) as being anticipated by McCullough et al. (USPN 5,049,349).

In reference to claims 10-21, McCullough et al. discloses an apparatus for manufacturing and filling flexible pouches comprising: a handling system (50) that conveys (column 9, lines 1-26) polyethylene terephthalate preforms (58) and/or flexible pouches (14) through a blow molding machine (68), a filling machine, and a closing or capping machine (column 6, line 34-column 7, line 3) that closes a filled flexible pouch (14), a system which decorates and/or dresses the flexible pouch (14) by placing the flexible, filled pouch (14) into a rigid container or a box (12).

4. Claims 22 and 28 are rejected under 35 U.S.C. 103(a) as being anticipated by Bettel (USPN 6,298,638).

In reference to claims 22 and 28, Bettel discloses a manufacturing process comprising: placing a perform having at least one layer and a neck portion (figure 2) into a handling system

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(30, 32; column 4 lines 22-24); blow molding (12) the preform into a flexible container; filling (14) the flexible container with a desired product; closing or capping (15) the filled container; wherein the neck portion of the perform is used to handle the preform throughout the process (column 1 lines 55-59).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 6, 7, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettle (USPN 6,298,638) in view of Domeier et al. (USPN 5,487,257).

In reference to claims 1, 6 and 7, Bettle discloses a manufacturing process comprising: blow molding (12) a preform having at least one layer and a neck portion (figure 2) into a flexible container; filling (14) the flexible container with a desired product; closing or capping (15) the filled container; wherein the neck portion of the perform is used to handle the preform throughout the process (column 1 lines 55-59). Bettle discloses discharging the flexible containers after the container has been filled and capped (column 4 line 66-column 5 line 2), but does not disclose further processing of the containers post discharge. Domeier et al. teaches a process of placing filled and capped containers into a box (3, 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made modify the process of Bettle to include the step of placing the filled and capped flexible containers into a box, as suggested by Domeier et al., for the purpose of shipping the filled containers.

With respect to claims 25-27, Bettle discloses discharging the flexible containers after the container has been filled and capped (column 4 line 66-column 5 line 2), but does not disclose further processing of the containers post discharge. Domeier et al. teaches a process of placing filled and capped containers into a box (3, 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made modify the process of Bettle to include the step of placing the filled and capped flexible containers into a box, as suggested by Domeier et al., for the purpose of shipping the filled containers.

7. Claims 2, 3, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettle (USPN 6,298,638) in view of Wakabayashi (USPN 3,818,785).

Regarding claims 2 and 3, Bettle discloses a process of manufacturing flexible containers, but does not disclose decorating and/or dressing the flexible containers. Wakabayashi teaches a process of manufacturing flexible containers including the steps of: blow molding (A) a perform into a flexible container; filling (I; column 2 lines 61-62) the flexible container with a desired product; and decorating (K) the flexible container after the container has been filled. It would have been obvious to one having ordinary skill in the art to modify the process of Bettle to include the step of decorating flexible containers, as suggested by Wakabayashi, for the purpose of disclosing information regarding the contents of the flexible container.

In reference to claims 23 and 24, Bettle discloses a process of manufacturing flexible containers, but does not disclose decorating and/or dressing the flexible containers. Wakabayashi teaches a process of manufacturing flexible containers including the steps of: blow molding (A) a perform into a flexible container; filling (I; column 2 lines 61-62) the flexible container with a desired product; and decorating (K) the flexible container after the container has

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been filled. It would have been obvious to one having ordinary skill in the art to modify the process of Bettel to include the step of decorating flexible containers, as suggested by Wakabayashi, for the purpose of disclosing information regarding the contents of the flexible container.

8. Claim 8, 9, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettel (USPN 6,298,638) in view of Orimoto et al. (USPN 5,540,879).

With respect to claims 8 and 9, Bettel discloses a flexible container having at least one layer, but does not specifically disclose the composition of the layer(s) of the container. Orimoto et al. teaches a process of blow molding a perform into container, wherein the container includes at least one layer of polyethylene terephthalate (column 1 lines 29-30). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the process of Bettel to include the polyethylene terephthalate perform of Orimoto et al., since column 1 lines 29-42 of Orimoto et al. states that the use of such a material is well known in the art of blow molding flexible container, as the material is inexpensive and durable.

In reference to claims 29 and 30, Bettel discloses a flexible container having at least one layer, but does not specifically disclose the composition of the layer(s) of the container. Orimoto et al. teaches a process of blow molding a perform into container, wherein the container includes at least one layer of polyethylene terephthalate (column 1 lines 29-30). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the process of Bettel to include the polyethylene terephthalate perform of Orimoto et al., since column 1 lines 29-42 of Orimoto et al. states that the use of such a material is well known in the art of blow molding flexible container, as the material is inexpensive and durable.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-3 and 6-9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 10-21 have been fully considered but they are not persuasive. Applicant failed to explain how the claim 10-21 avoid the reference(s) or distinguish from them, thus Examiner has maintained the rejection.

***Conclusion***

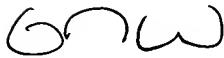
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

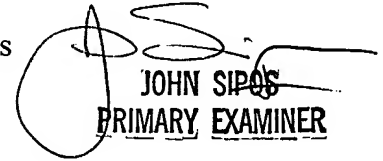
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
grw  
January 9, 2006

Gloria R Weeks  
Examiner  
Art Unit 3721

  
**JOHN SIPOS**  
**PRIMARY EXAMINER**